IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL REVISION PETITION NO. 245/06

(Harchand Ram Vs. Khinya Ram & Ors.)

Date of Order : 03.08.2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. C.R.Jakhar for the petitioner.
Mr. V.R.Mehta, P.P.
Mr. N.S.Bhati, for the respondents No. 1 and 2.

BY THE COURT:-

By the instant criminal revision petition under Section 397/401 Cr.P.C., the petitioner has challenged the judgment and order dated 22.12.2005 passed by Judicial Magistrate, Osian (for short 'the trial court' hereinafter) acquitting the respondents No.1 and 2 for the offences under Sections 341 and 323/34 IPC.

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the order impugned as also record of the trial court.

It is contended by learned counsel for the petitioner that with regard to the disputed land, the parties have been litigating even there are revenue suits between the parties and

occurrence took place in order to take a forcible possession of the Dhani.

I have carefully gone through the statements of PW-1 Harchand who is said to be injured, PW-2 Jagdish, PW-3 Gomadram, PW-4 Kumari Amu and PW-5 Achlaram. Apart from these witnesses PW-6 Naharsingh, PW-7 Asusingh, PW-8 Karnaram, PW-9 Arjun and PW-10 Dr. H.K.Sharma have also been examined. I have also gone through the injury report of the injured.

The trial court noticed that the injured person have not been examined at the request of the police but at their own instance. There had been a dispute of the land between the parties and parties have been litigating before the revenue courts. There are serious contradictions in the statements of prosecution witnesses with regard to Lathi, Jayee etc. as also with regard to causing of injuries and on these premises, the trial court came to the conclusion that the prosecution has failed to prove the case beyond reasonable doubt and extended the benefit of doubt to the accused respondents and acquitted them of the offences noticed above. Before the trial court, it was State case and State of Rajasthan has not challenged the judgment of acquittal by way of leave to appeal or an appeal.

On close scrutiny of the record of the trial court and going through the statements of the witnesses, in my view, the conclusion arrived at by the trial court cannot be said to be suffering from any error, illegality or perversity warranting interference in the revisional jurisdiction at the instance of the private party i.e. the complainant.

Powers of revisional court in such matters are very limited. The Hon'ble Supreme Court in Hydru Vs. State of Kerala (2004) 13 SCC 374 held that the powers of revisional court under Section 397 and 401 Cr.P.C. in the case of acquittal are very limited. It can interfere only if there is any procedural irregularity or material evidence has been overlooked or misread by the subordinate Court. However, it has further been held that upon reappraisal of evidence two views are possible, interference is not permissible.

In this view of the matter, the revision petition has no force and it is therefore, dismissed.

(H.R.PANWAR),J.

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